

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF ARKANSAS, EASTERN DIVISION

MAR 01 2021

Northern Division

JAMES W. McCORMACK, CLERK

By: *[Signature]* DEP CLERK

LUZIA WHITE

PLAINTIFF

V.

CAUSE NO.: 3:21-cv-49-LPR

SOUTHERN WHOLESALE, LLC.,
DAMON SCOTT TODD,
MARION WADE TODD,
DIANA NEWCOMB
and JOHN DOES A-D

DEFENDANTS

This case assigned to District Judge *Rudofsky*
and to Magistrate Judge *Rau*

COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff, Luzia White, by and through counsel, Steven W. Pittman, Chatham Gilder Howell Pittman, PLLC and files his Complaint against the defendants and in support thereof would show unto the Court as follows, to wit:

JURISDICTION AND VENUE

1. The Plaintiff, Luzia White, is an adult resident citizen of the Hernando, Mississippi.
2. The Defendant, Diana Newcomb, upon information and belief is an adult individual and sole proprietorship doing business in the State of Arkansas as Honey Bee's Flea Market & Consignment (hereinafter referred to as Honey Bee's). Service of Ms. Newcomb may be made at 2969 Hwy. 62/412, Highland, AR. 72542.
3. The Defendant, Southern Wholesale LLC, (hereinafter referred to as Southern Wholesale) is a Limited Partnership Company doing business in the State of Arkansas owned by Damon Scott Todd and Marion Wade Todd, whose principal office is at 2969 Hwy 62/412 Highland, AR 72542, and whose registered agent for service of process is Damon Scott Todd residing at 3357 Yankton Rd., Ash Flat, Arkansas 72513.

4. Damon Scott Todd is an adult resident citizen of the State of Arkansas residing at 3357 Yankton Rd., Ash Flat, Arkansas 72513.

5. Marion Wade Todd is an adult resident citizen of the State of Arkansas residing at 3357 Yankton Rd., Ash Flat, Arkansas 72513.

6. John Does A-D are unknown individuals and/or entities that are liable to Plaintiff as alleged herein. The names and capacities of Defendants John Does A-D are inclusive, whether individual, corporate or otherwise, and are presently unknown to Plaintiff, who sued said Defendants by fictitious names, and will further seek leave of this Honorable Court to amend this Complaint to show their true names and capacities when the same are ascertained. Plaintiff alleges upon information and belief that each of the Defendants designated herein as a Doe is responsible in some manner and liable herein to Plaintiff by reason of their tortious and wanton actions and/or in some other manner whether alleged herein in this complaint or not, and by such wrongful conduct, said Defendants, each of them, proximately caused and/or contributed to injury and damage occasioned to Plaintiff herein.

7. That all acts complained of occurred in the State of Arkansas.

8. That there is complete diversity between the parties to the lawsuit and the amount in controversy is greater than the minimal jurisdictional limits of this court therefore this Court has proper jurisdiction.

FACTS

9. That on or about March 3, 2018 the plaintiff Luzia White, 61 years old, leased a booth in a building owned by Defendants Southern Wholesale, Damon Scott Todd and Marion Wade Todd.

10. That on or about March 3, 2018 defendant Honey Bee's leased the building owned by

Defendants Southern Wholesale, Damon Scott Todd and Marion Wade Todd.

11. That on or about March 3, 2018 the plaintiff fell when she stepped into a hole in the ground on the premises owned by Southern Wholesale and leased by Honey Bee's.

12. That the Plaintiff suffered severe, painful and continuing injuries.

CAUSE OF ACTION - NEGLIGENCE

13. The Plaintiff re-alleges paragraphs 1-12 above as if set out here verbatim. The Plaintiff's cause of action arises in Tort for the negligence of the defendants in the maintenance and upkeep of the premises.

14. That the harm resulting to the Plaintiff was caused by a hidden danger known to the Defendants.

15. At the time of her fall, the Plaintiff was a Licensee on the premises. The Defendants beached their duty of ordinary care to the Plaintiff and persons such as the Plaintiff.

16. The injuries sustained by the Plaintiff were proximately caused by one or more of the following acts of negligence on the part of the Defendants:

- a. Failing to maintain the area and premises in a reasonably safe condition when they knew or should have known that the area would be used by the Plaintiff.
- b. Taking insufficient action to correct a dangerous and defective condition when it knew or should have known of said condition;
- c. Failing to act in a reasonable and prudent manner under the existing conditions.
- d. Failing to use ordinary care under the then existing circumstances.
- e. Failing to warn of the hidden danger.

DAMAGES

17. As a direct and proximate result of the negligence of the defendant, the plaintiff has been caused to suffer the following damages to wit:

- a. Serious bodily injury; past, present and future.
- b. Great pain and suffering; past, present and future.
- c. Great mental anguish.
- d. Loss of earning capacity, lost wages and loss of investments and savings; past, present and future.
- e. Medical, Doctor and hospital bills as well as other out of pocket expenses.
- f. Loss of enjoyment of life.

PRAYER FOR RELIEF

As a direct and proximate result of the negligence of the defendants the plaintiff has suffered damages as stated above and hereby prays for a Judgment against the defendants in the amount of \$150,000.00.

WHEREFORE PREMISES CONSIDERED the plaintiff moves this honorable court to set this matter for a jury trial once joined and for an award of damages as prayed for.

JURY TRIAL DEMANDED.

Respectfully Submitted,



Steven W. Pittman, MSB#10081
Chatham Gilder Howell Pittman, PLLC
Attorney for Plaintiff
291 Loshier Street
Hernando, MS 38632
(662) 429-1027